S.B. Civil Writ Petition No.6794/2007

Ashok
vs
Addl. District Judge & Ors.

Date of order : 22.10.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.KC Samdariya, for the petitioners.

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Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 6th August, 2007 by which petitioner's objection about the admissibility of the document Ex.6 was rejected by the trial court.

According to petitioner, the document Ex.6 though as titled “agreement to sell”, but in fact, it contains all the ingredients of complete sale, i.e., acceptance of the sale consideration and handing over possession of the property to the vendee and giving right to the vendee to further transfer the property. Therefore, document required stamp duty as well as required to be registered under Section 17 of the Registration Act. For want of stamp duty and registration, the document cannot be admitted in evidence and even for collateral purposes, the document cannot be admitted as held by this Court in the judgment delivered in Smt. Jamna Bai Vs. Tulsi

Ram reported in AIR 1997 (Raj.) 85 and Ganpat Mal Dhariwal Vs. Sukhraj & Anr. reported in 2001(4) WLN 276.

I considered the submissions of learned counsel for the petitioner and perused the Ex.6 as well as the order passed by the court below.

The trial court clearly observed that it is the case of the parties setting up the document that in pursuance of the agreement dated 27th August, 1992 (Ex.6), the registered sale deeds were executed subsequently.

In view of the above fact as well as in view of the fact that document contains the recital that it is a document evidencing agreement for sale and it was followed by the registered sale deed then in totality it cannot be said that the document, which has already been acted upon as per setting up the document by the parties, can be treated to be a sale deed. It is settled law that when there is no ambiguity in the language of the deed then the literal meaning is required to be given of the language employed in the deed. In the totality of the facts and circumstances of the case, the trial court carefully considered this aspect of the matter as well as the sequence of events as claimed by the party setting up the document. It is different thing that petitioner may prove his all defences which he

wants to take to destroy even execution of the document Ex.6 and execution of the sale deed in consequence and in furtherance of Ex.6 etc, but it cannot be said that the court below has committed jurisdictional error or even in illegal manner rejected the petitioner's objection.

In view of the above, I do not find that any illegality has been committed in the order passed by the court below Hence, the writ petition of the petitioner is dismissed having no merit.

(PRAKASH TATIA), J.

c.p.goyal/-